

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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|-------------------------------------|---|----------------------------|
| William C. McKennedy, III, #256024, |) | |
| |) | |
| Petitioner, |) | C.A. No. 6:06-641-HMH-WMC |
| |) | |
| vs. |) | OPINION & ORDER |
| |) | |
| Mr. Faulkenberry; Attorney General |) | |
| of the State of South Carolina, |) | |
| |) | |
| Respondents. |) | |

This matter is before the court on William C. McKennedy, III's ("McKennedy") motion to alter or amend the court's February 12, 2007, order granting the Respondents' motion for summary judgment. McKennedy bases his motion on Rules 50, 52(b) and (c), 59(e), and 60(a) and (b) of the Federal Rules of Civil Procedure.

A motion to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure may be made on three grounds: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). "Rule 59(e) motions may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment." Pac. Ins. Co. v. American Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). "In general reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly." Id. (internal quotation marks omitted). In his motion, McKennedy reasserts the arguments put forth in his original

objections. McKennedy has shown none of the three grounds required under Rule 59 to warrant a grant of his motion to alter or amend the judgment.

Similarly, Rule 60 “has invested federal courts with the power in certain restricted circumstances to vacate judgments whenever such action is appropriate to accomplish justice.” Compton v. Alton S.S. Co., Inc., 608 F.2d 96, 101-02 (4th Cir. 1979) (internal quotation marks omitted). “The remedy provided by the Rule, however, is extraordinary and is only to be invoked upon a showing of exceptional circumstances.” Id. at 102. The court finds that McKennedy has made no showing of exception circumstances.

It is therefore

ORDERED that McKennedy’s motion to alter or amend the judgment, docket number 36, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
March 8, 2007

NOTICE OF RIGHT TO APPEAL

The petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.